

# MANDATE

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

Solny / Nagy  
06-cv-5884  
Pauley

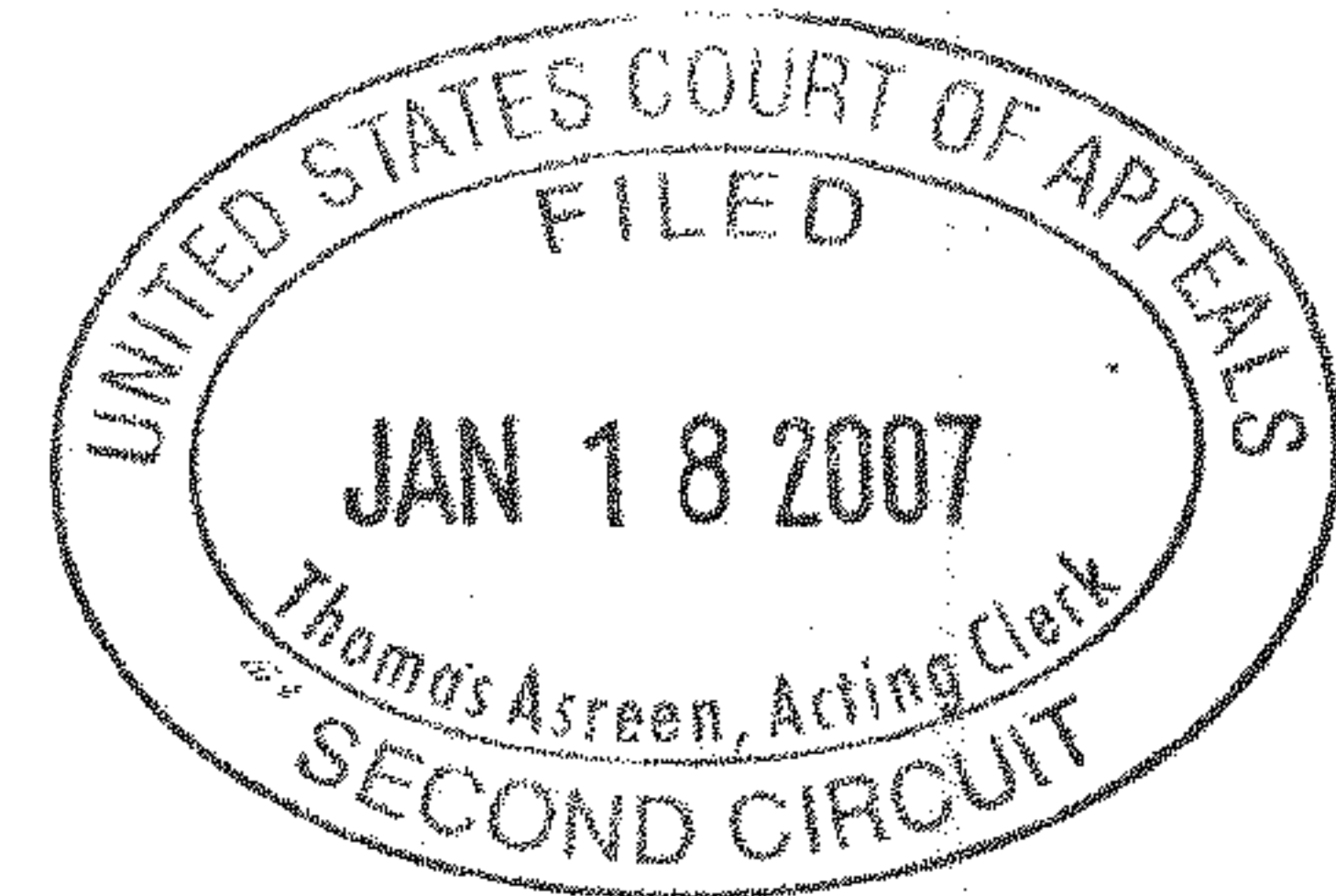
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LAURI COHEN BADER,

Docket No. : 06-5428-cv

Plaintiff

- against -

MICHAEL AINSLIE, JOHN F. AKERS, ROGER S.  
BERLIND, THOMAS H. CRUIKSHANK, MARSHA  
JOHNSON EVANS, RICHARD FULD, JR., SIR  
CHRISTOPHER GENT, ROLAND A. HERNANDEZ,  
HENRY KAUFMAN, JOHN D. MACOMBER,  
and LEHMAN BROTHERS HOLDINGS, INC.,



Defendants.

----- X  
**JOINT STIPULATION AND ORDER  
WITHDRAWING APPEAL FROM ACTIVE  
CONSIDERATION, WITHOUT PREJUDICE**

WHEREAS the District Court, on October 24, 2006, dismissed this action in contemplation of a settlement, with leave to make an application to restore within 30 days; and

WHEREAS plaintiff's sent a letter, dated October 25, 2006, to the District Court applying to restore the case; and

WHEREAS plaintiff's attorney filed a Notice of Appeal on November 27, 2006, after not receiving any response from the District Court regarding his timely restoration letter; and

WHEREAS the District Court eventually ordered restoration of the case, on December 21, 2006, by endorsement on plaintiff's attorney's letter of October 25, 2006; and

WHEREAS the parties intend to pursue settlement procedures in the District Court pursuant to F.R.C.P. 23.1, and the District Court has ordered a hearing schedule;

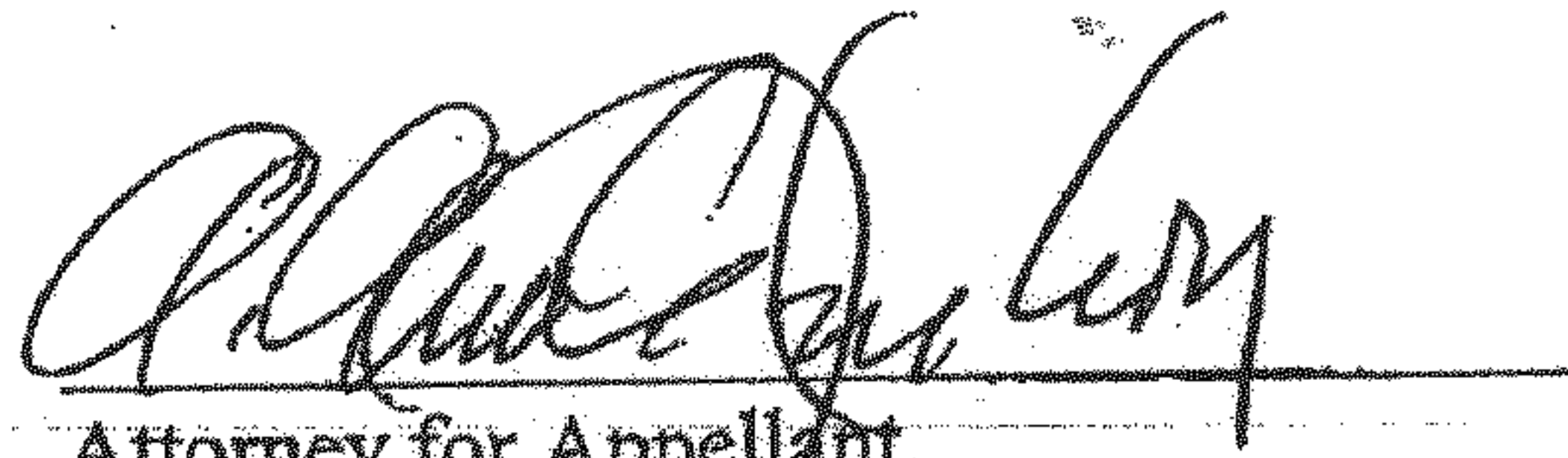
CERTIFIED:

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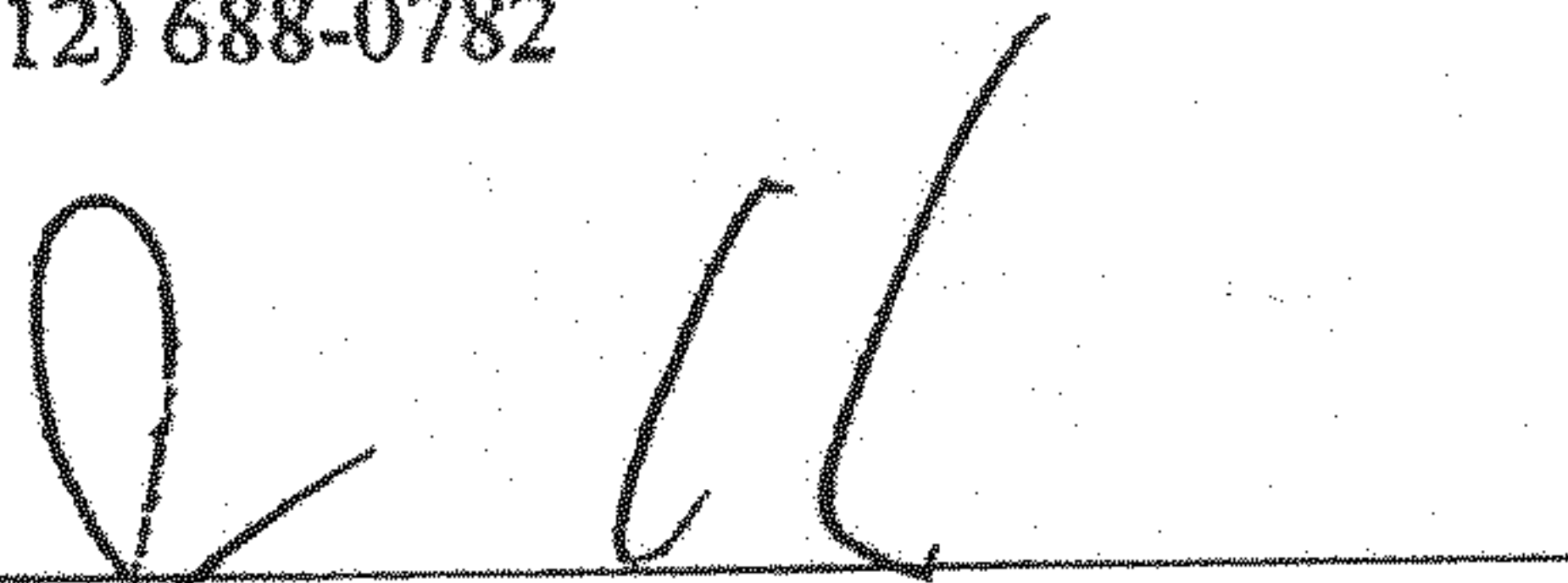
THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties, through their undersigned counsel, that this appeal is withdrawn, without costs and without attorneys' fees for the time spent on this appeal, pursuant to F.R.A.P. 42(b). The case is returned to the District Court to conclude its proceeding. Only in the unlikely event that the District Court were to vacate its restoration order of December 21, 2006, appellant retains the right to reinstate this appeal by letter notice to the Clerk of this Court so requesting, within 20 days after any such order.

Dated: January 17, 2006



Attorney for Appellant  
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Dated: January 17, 2006




Attorney for Appellee  
James G. Gamble  
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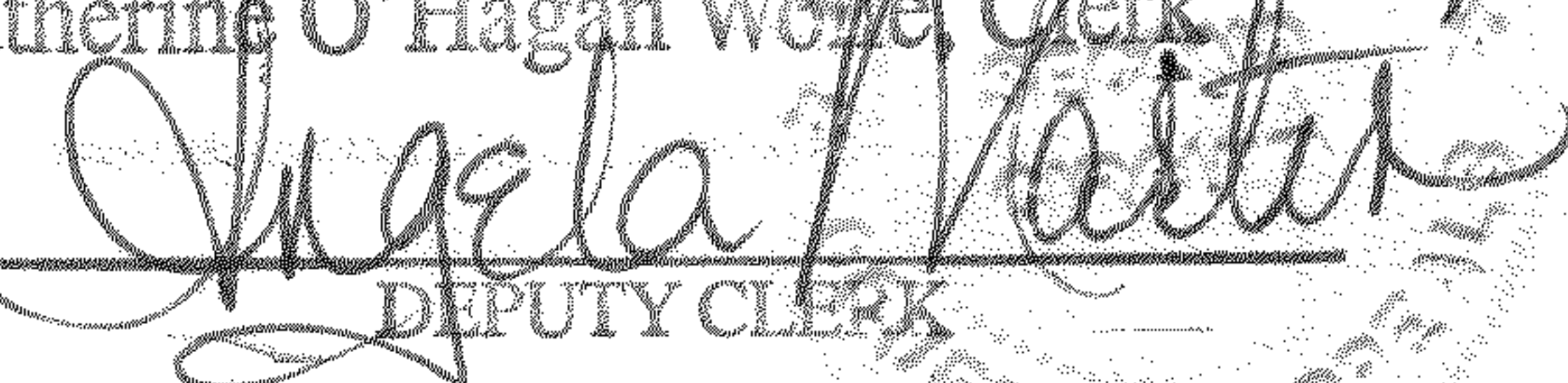
SO ORDERED:

Jan. 18, 2007

Thomas Asrean, Acting Clerk

By   
Stanley A. Bass, Staff Counsel

A TRUE COPY  
Catherine O'Hagan Wolfe, Clerk

by   
DEPUTY CLERK